THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.2104 of 2003

Dated:03.11.2006

Between
G.Bhagyalakshmi

.....Petitioner

and

1.The District Collector,
Vizianagaram District,
Vizianagaram and others.

...Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.2104 of 2003

ORDER:

This writ petition is filed seeking a Mandamus to declare the proceedings in Rc.NO.324/2002,G8, dated 25.1.2003 of the 1st respondent as arbitrary and illegal and contrary to the provisions of Clause 3 (4) of the A.P. Schedule Commodities (RDCS) Order, 1973.

It appears that petitioner is the fair price shop dealer of shop No.2, of Kumili village, Poosapatirega Mandal, Vizianagaram District. While so, a show cause notice has been issued by the 2nd respondent Revenue Divisional Officer, Vizianagaram to the petitioner. Pursuant to the same, the petitioner submitted her explanation. Though, the Revenue Divisional Officer did not accept the explanation submitted by the petitioner, treated the same as a first mistake, warned her by

imposing a fine of Rs.500/- and directed restoration of her authorization. Aggrieved by the same, the 4th respondent-Sarpanch of the Village filed an appeal before the Joint Collector. When the Joint Collector suspended the order passed by the Revenue Divisional Officer, on an earlier occasion, the petitioner filed writ petiton before this Court, the same was allowed and the matter was directed to be made over to the Collector. Thus, the Collector has taken up the appeal on file and dispose of the same, reversing the order passed by the Revenue Divisional Officer. Aggrieved by the same, the present writ petiton is filed.

The very show cause notice issued by the Revenue Divisional Officer, vizianagaram, shows that there are three allegations against the petitioner viz., the petitioner is selling the essential commodities at higher rates than one prescribed by the Government, the fair price shop is being maintained by her husband, who has got irritable and arrogant behavior with card holds and that though the authorization of the petitioner has

expired on 31.3.2002, it has not been renewed. Except the last one, there is no other allegation made against the petitioner and the allegations are general in nature. No notice of any kind was issued to the petitioner nor copy of the report of the Mandal Revenue Officer was furnished nor any enquiry as contemplated under law, was conducted. The Revenue Divisional Officer simply stated that he was not convinced with the explanation submitted by the petitioner, treating the same as a first mistake, imposed a fine of Rs.500/- and directed restoration of her authorization. Aggrieved by the same, Sarparch of the village filed an appeal before the Joint Collector on 15.6.2002, which was made over to the Collector. While allowing the appeal, the Collector held that the order of the Revenue divisional Officer is technically inconsistent and though the dealer was already penalized during the year 1995, the Revenue Divisional Officer has ignored it and restored the authorization treating it as first mistake, and hence he was of the opinion that the order of the Revenue

Divisional Officer in restoring the authorization of the dealer is liable to be set aside on technical grounds.

I am of the opinion that the very charges framed in the show cause notice dated 22.4.2002 do not constitute any specific misconduct against the petitioner. The allegations are not only general but also vague. Therefore, the explanation of the petitioner was convincing. In fact, there was nothing before the Revenue Divisional Officer to come to the conclusion that the petitioner had committed some irregularities. However, I am of the opinion that while restoring the authorization of the petitioner, Revenue Divisional Officer inflicted a punishment of Rs.500/-, may be, to be more cautious, warned the petitioner. But it does not mean that the Collector could have taken up the matter stating that the Revenue Divisional Officer was not right in holding that the petitioner has committed the mistake for the first time, and ordering restoration of the authorization. I am of the opinion that unless and until the present misconduct

is specified as grave and is proved as per law, the past misconduct would not have been taken into consideration for the purpose of cancellation of the authorization of the petitioner by the Collector.

For all the above reasons, the writ petition is liable to be allowed and the impugned order is liable to set aside.

In the result, the writ petition is allowed and the impugned order is set aside and the order of the Revenue Divisional Officer shall stand restored.

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03-11-2006

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